



February 20, 2009

HOUSE BILL No. 1278

DIGEST OF HB 1278 (Updated February 19, 2009 8:30 am - DI 52)

Citations Affected: IC 32-30.

Synopsis: Water nuisances. Provides that a person who unreasonably improves the person's land by knowingly collecting, concentrating, and discharging the diffused surface water from the person's land as a body on a neighboring property so that the water stands on another person's land in an unusual quantity for a prolonged period or passes into or over another person's land in a large quantity is liable for the actual damage caused to the other person by the unreasonable altered flow of diffused surface water. Permits a person whose land is damaged by the neighboring landowner's actions to bring an action to abate or enjoin the unreasonable improvement that caused the altered flow of water. Specifies that this law: (1) does not limit the availability of other civil remedies for damages caused by water; and (2) does not apply to a person engaged in building Class 2 structures or developing land for residential purposes with appropriate local drainage approval.

Effective: July 1, 2009.

**Smith M, Cheatham, Hinkle,
Bischoff**

January 13, 2009, read first time and referred to Committee on Natural Resources.
February 19, 2009, amended, reported — Do Pass.

C
o
p
y

HB 1278—LS 7371/DI 77+



February 20, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1278

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-30-6.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]:

4 **Chapter 6.5. Water Nuisances**

5 **Sec. 1. As used in this chapter, "diffused surface water" means**
6 **water from falling rain or melting snow that is diffused over the**
7 **surface of the land. The term does not include water that flows in**
8 **defined channels.**

9 **Sec. 2. Except as provided in section 5 of this chapter, a person**
10 **who unreasonably improves the person's land by knowingly**
11 **collecting, concentrating, and discharging the diffused surface**
12 **water from the person's land as a body on a neighboring property**
13 **so that the water:**

14 (1) stands on another person's land in an unusual quantity for
15 a prolonged period; or

16 (2) passes into or over another person's land in a large
17 quantity;

HB 1278—LS 7371/DI 77+



C
o
p
y

1 is liable for the actual damage caused to the other person by the
2 unreasonable altered flow of diffused surface water.

3 Sec. 3. Except as provided in section 5 of this chapter, a person
4 whose land is damaged by a landowner's actions under section 2 of
5 this chapter may bring an action to abate or enjoin the
6 unreasonable improvement.

7 Sec. 4. This chapter does not restrict the availability of any
8 other civil remedy for harm caused by the unreasonable altered
9 flow of water or diffused surface water.

10 Sec. 5. This chapter does not apply to a person engaged in either
11 or both of the following:

12 (1) Building Class 2 structures (as defined in
13 IC 22-12-1-5(a)(1)).

14 (2) Developing land for residential purposes with appropriate
15 local drainage approval.

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred House Bill 1278, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 9 through 17, begin a new paragraph and insert:

"Sec. 2. Except as provided in section 5 of this chapter, a person who unreasonably improves the person's land by knowingly collecting, concentrating, and discharging the diffused surface water from the person's land as a body on a neighboring property so that the water:

(1) stands on another person's land in an unusual quantity for a prolonged period; or

(2) passes into or over another person's land in a large quantity;

is liable for the actual damage caused to the other person by the unreasonable altered flow of diffused surface water."

Page 2, delete line 1.

Page 2, line 2, delete "A" and insert **"Except as provided in section 5 of this chapter, a"**.

Page 2, line 2, delete "the altered flow of" and insert **"a landowner's actions under section 2 of this chapter"**.

Page 2, line 3, delete "water or diffused surface water".

Page 2, line 5, delete "(a)".

Page 2, delete lines 8 through 10, begin a new paragraph and insert:

"Sec. 5. This chapter does not apply to a person engaged in either or both of the following:

(1) Building Class 2 structures (as defined in IC 22-12-1-5(a)(1)).

(2) Developing land for residential purposes with appropriate local drainage approval."

and when so amended that said bill do pass.

(Reference is to HB 1278 as introduced.)

BISCHOFF, Chair

Committee Vote: yeas 8, nays 0.

C
O
P
Y

